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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/686,897 | 10/15/2003 | Christopher A. Rygaard | 18511-010001 | 7543 |
| 26181 7590 04/07/2009 FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022 | | | | |
| EXAMINER | | | | |
| KANG, INSUN | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2193 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 04/07/2009 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/686,897

Applicant(s)

RYGAARD, CHRISTOPHER A.

Examiner

INSUN KANG

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-42.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Insun Kang/
Examiner, Art Unit 2193

Continuation of 11, does NOT place the application in condition for allowance because:

The applicant continues to argue that: in Zhou, all morphing occurs either on a host prior to migration or on a host after arrival. Zhou does not disclose a morphing console that alters a jumping application that is jumping between two or more hosts connected to the morphing console where the jumping application is received from a first host, altered, and sent to a next host. The morphing console is not a dispatching or receiving host. Consequently, the jumping application is altered as it is jumping between hosts, not before or after a jump. Zhou does not disclose any morphing console to which the jumping application is sent between jumps and any management system controlling agent-mode stages, there is no structure in Zhou that receives a jumping application between jumps (remark, 9-10). The Examiner's assertion that Zhou's jumping application can morph in transit between hosts is wholly without support (remark, 11). There is no particular disclosure of morphing after leaving a host but before arriving at a destination host. Thus, while there is a generic statement of morphing being triggered at any point, there is no enabling disclosure that the actual morphing occurs at any other locations than on the sending or receiving host. Zhou fails to disclose a morphing console that determines which host is the next host and then alters the behavior of the jumping application for the next host (remark, 11-12).

In response, first, Astra (Aramira corp./JumpingsBeans.com) clearly discloses Jumping Beans related to the instant invention. The Jumping Beans architecture is the instant invention's core subject matter. Astra's Jumping Beans management console (server) that tracks, manages, and controls the entire Jumping Beans system (page 25, Figure 1 which shows Jumping Bean architecture) is the management and Security Console (MaSC) in the instant invention (see, Figure 5 which illustrates the same architecture). The Jumping Beans console provides the centralized configuration management and tracking of mobile applications on the network (page 5, last par). The only portion in the instant specification that describes the meaning of "as it is jumping between hosts" recited in the claims is "while the jumping application is in the MaSC," the MaSC alters the state and/or behavior of the jumping application...before forwarding the jumping application to the next host (page 11, lines 5-10)." Therefore, the morphing occurs while the jumping agent is in the MaSC. As stated above, the control, configuration and management of the mobile applications and security are also performed from the centralized Jumping Beans management console in Astra's Jumping Beans architecture (page 5, last par.; page 1) which is the underlying instant invention. By using the "single central location" provided by the console, the multiple mobile agents can be handled "simultaneously in transit without resource collisions (page 12, second par.)." The mobile agents can be easily integrated with the hosts environments via the Jumping Beans management and security console (i.e. page 5, Integration into existing environments section). Astra discloses configuring of the mobile applications in the console as stated above. Although it is not clearly recited that the console includes a morphing module, the configuration module would have been the morphing module for the mobile application to alter the mobile application behavior to accommodate the mobile application for the next host to visit. Nonetheless, Zhou clearly teaches an agent system with a morphing module for mobile agents to "submit agents in forms suitable for various platforms (i.e. page 11, lines 1-3)." Zhou further teaches that morphing can be "triggered at any point during agent execution" in response to externally generated events by the management system that controls agents' efficient execution and transforms the agent-mode stages (page 7, left col., third par.) and Astra clearly discloses that the Jumping Beans Management and security console manages, configures and controls the mobile agents, therefore, the morphing can be performed "in transit" in Zhou as the management system, not hosts, transforms the agent-mode stages and certainly in Astra as the console does the mobile configuration. Therefore, Astra teaching the centralized Jumping Beans console that dispatches and forwards the mobile agents between hosts based on the itinerary (see figure 1, page 8) and configures the behavior of the mobile agents for the next host to visit by the morphing modules in Zhou that allows the morphing triggered at any point during the agent execution teaches all the limitations in the claims.